REGISTERED No. M. 4631.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. III] Trivandrum, Monday, 1st December 1958 / 10th Agrahayana 1880 (Saka) [No. 128

NOTIFICATION.

LA4-3202/58. *1st December 1958.*

The following Bills together with the Statements of Objects and Reasons, are published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1958.

L. A. Bill No. 53 of 1958.

THE GENERAL SALES TAX (THIRD AMENDMENT) BILL, 1958.

A

BILL

further to amend the General Sales Tax Act, 1125.

Preamble.—WHEREAS it is expedient further to amend the General Sales Tax Act, 1125 (Act XI of 1125), for the purpose hereinafter appearing;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the General Sales Tax (Third Amendment) Act, 1958.

(2) It shall come into force at once.

2. *Amendment of Schedule 1, Act XI of 1125.*—In Schedule 1 to the General Sales Tax Act, 1125 (Act XI of 1125), item 46 shall be omitted.

3. *Repeal.*—(1) The General Sales Tax (Third Amendment) Ordinance, 1958 (Ordinance No. 8 of 1958), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the General Sales Tax Act, 1125 (Act XI of 1125), as amended by the said Ordinance, shall be deemed to have been done or taken in the exercise of the powers conferred by or under the said Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS.

By the General Sales Tax (Second Amendment) Act, 1958 (Act 22 of 1958), timber was placed on a single point system of taxation from 1-4-1958. Experience so far gained shows that the present scheme of taxation on timber has not been working successfully as originally expected. It was therefore decided to revert to the multi-point system of taxation in respect of timber with effect from 1st October, 1958. Since the Legislative Assembly was not in session, the General Sales Tax (Third Amendment) Ordinance, 1958, was promulgated by the Governor, placing timber on the multi-point system of taxation with effect from 1st October, 1958. The present Bill seeks to replace the Ordinance by an Act of the Legislature.

C. ACHUTHA MENON.

L. A. Bill No. 52 of 1958.

THE KERALA GOVERNMENT LAND ASSIGNMENT BILL, 1958.

A

BILL

to provide for the assignment of Government lands.

Preamble.—WHEREAS it is expedient to regulate the assignment of Government lands and to remove doubts as to the validity of the limitations and restrictions imposed in assignments of land by the Government or under their authority;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Government Land Assignment Act, 1958.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Definitions.*—(2) All public roads, streets, lanes and paths, the bridges, ditches, dykes and fences on or beside the same;

the bed of the sea and of harbours and creeks below high water-mark; the beds and banks of rivers, streams, irrigation and drainage channels;

canals, tanks, lakes, backwaters and water-courses;

and all lands wherever situated;

save in so far as the same are the property of—

(a) Jenmis or holders of Inams; or

(b) all holders of land in any way subject to the payment of land revenue to the Government; or

(c) any other registered holder of land in proprietary right; or

(d) any person holding land under grant from the Government otherwise than by way of lease or licence; or

(e) any person claiming through or holding under any of the persons referred to in clauses (a), (b), (c) or (d); are, and are hereby declared to be, Government lands except as may be otherwise provided by any law for the time being in force, subject to all rights of way and other public rights and to the natural and easement rights of other land owners and to all customary rights legally subsisting.

Explanation I. Lands registered in the name of a person but subsequently abandoned or relinquished and all lands held by right of escheat, purchase, resumption, reversion or acquisition under the land Acquisition Act for the time being

in force are Government lands within the meaning of this section.

Explanation. II. In this section, the expression "high-water mark" means the highest point reached by the ordinary spring-tide at any season of the year.

(2) "assignment" includes a transfer of land by way of lease.

(3) "assignee" includes his heirs.

(4) "prescribed" means prescribed by rules made under this Act.

3. *Assignment of Government land.*—Government land may be assigned by the Government or by any prescribed authority either absolutely or subject to such restrictions, limitations and conditions as may be prescribed.

Explanation.—Any restriction as to alienation, whether voluntary or otherwise, of the rights of the assignee, is within the meaning of this section.

4. *Procedure to be followed before Government lands are assigned.*—When any Government land is proposed to be assigned otherwise than by way of lease, the Tahsildar of the Taluk in which the land is situate or any officer empowered by the Government in this behalf shall notify in the prescribed manner that such land will, by public auction or otherwise, be assigned, and call upon those who have got any claim to such land to prefer to him their objections, if any, in writing, within a time which shall be specified in such notification.

(2) If any objection is preferred within the time specified in the notification, the Tahsildar or such other officer shall enquire into the same and pass an order in writing either accepting or rejecting the claim in full or in part and intimate in writing the fact of such disposal to the claimant.

(3) For the purposes of the enquiry under sub-section (2) the Officer making the enquiry shall have all the powers conferred upon the Collectors and Tahsildars by the law for the time being in force regarding summoning of persons for disposal of matters connected with the revenue administration.

5. *Order of assignment*.—(a) When the time fixed in the notification under sub-section (1) of section 4 has elapsed and no objection has been preferred; or

(b) when the claim is rejected—

(i) and the time for preferring an appeal from the order has elapsed and no appeal has been preferred; or

(ii) when an appeal has been preferred and the appeal is rejected by the appellate authority;

the land may, subject to such rules as may be made by the Government, in this behalf, be assigned by the prescribed authority.

6. *Bar of suit.*—No suit against the Government shall be entertained in any Civil Court in respect of any order passed under this Act except upon the ground that—

(a) the order is in breach of any completed agreement to assign, or

(b) the land in respect of which such order has been passed is not Government land:

Provided that any such suit by a person who was a party or privy to and had due notice of the proceeding under this Act shall be instituted within two years from the date of service of the notice of such order.

7. *Power to make rules.*—(1) The Government may make rules.—

(a) prescribing the manner in which assignment of land may be made whether by public auction or otherwise;

(b) prescribing the order of priority for the assignment of land whether by publication or otherwise;

(c) prescribing the authority by which such assignments may be made;

(d) prescribing the procedure to be followed in assigning the land;

(e) providing for the publication of notifications and service of notices;

(f) prescribing the procedure to be followed in the enquiry regarding claims preferred;

(g) prescribing the rates at which land may be assigned and tree-growths may be valued; and the mode of recovery of the amounts due;

(h) providing for the protection of royalties on the land assigned;

(i) prescribing the restrictions, limitations and conditions subject to which an assignment can be made in any case or class of cases;

(j) providing for appeals from the orders of any authority competent to assign any land;

(k) prescribing the time within which appeals may be preferred;

(l) regulating the powers of the appellate authority and the procedure to be followed by such authority;

(m) providing for revision by the Board of Revenue of any order passed by the prescribed authority, and prescribing the time within which such revisional power may be exercised;

(n) regulating the issue of Pattah or other title deed evidencing the assignment;

(o) prescribing Forms where Forms are necessary; and

(p) generally for carrying out the purposes of this Act.

(2) All rules made under this Act shall be published in the Gazette and thereupon they shall have the force of law.

(3) All rules made under this Act shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the Session in which they are so laid or the Session immediately following.

8. *Assignment to take effect with restrictions, conditions etc., according to their tenor*.—All the provisions, restrictions, conditions and limitations contained in any Pattah or other document evidencing the assignment of Government land or any interest therein shall be valid and take effect according to their tenor, notwithstanding any rule, statute enactment or usage to the contrary.

Explanation.—In this Section the expression 'Government land' shall include lands belonging to or owned by the Government of India or the Government of any other State in India.

9. *Repeals*.—(1) The Travancore-Cochin Government Land Assignment Act, 1950 (XXXIII of 1950) is hereby repealed.

(2) The Government Grants Act, 1895 (Central Act 15 of 1895) shall cease to apply to the Malabar District referred to in sub section (2) of section 5 of the States Re-organisation Act, 1956 (Central Act 37 of 1956).

(3) All rules and orders made or deemed to have been made under the Travancore-Cochin Land Assignment Act, 1950, hereby repealed, so far as they are not inconsistent with this Act, shall be deemed to have been made under the corresponding provisions of this Act, and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

STATEMENT OF OBJECTS AND REASONS.

In the Travancore-Cochin area, assignments of Government lands are regulated by the provisions contained in the Travancore-Cochin Land Assignment Act, 1950. In the Malabar area assignments of Government lands are not regulated by any specific statute as in the Travancore-Cochin area. In the Malabar area the Government Grants Act, 1895, is in force and it merely provides that the conditions and restrictions imposed in the grant will have effect notwithstanding anything contained in any other law. It is considered necessary to have a comprehensive legislation for the whole State for the purpose of regulating the assignments of Government lands. Hence the Bill.

K. R. GOURI.